

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.873 OF 2019

Pratibha B. Ramteke & Others	 Petitioners
Vs.	
State of Maharashtra & Others	 Respondents

Mr. Hemant Ghadigaonkar for the Petitioners.
Mr. Hemant Haryan, AGP, for the Respondent-State.
Ms Rupali Adhate for the Respondent-MCGM.
Mr. Kuber Shinde, Junior Engineer (B&F), K/W
Ward, Mumbai, present in Court.

CORAM: S.C. DHARMADHIKARI &
SANDEEP K. SHINDE, JJ.

DATE : JULY 31, 2019

P.C:

1. After this writ petition was argued for some time and our disinclination was expressed to grant any relief in writ jurisdiction, on instructions, Mr. Ghadigaonkar seeks leave to withdraw the writ petition insofar as the challenge to the notice under Section 354 of the Mumbai Municipal Corporation Act, 1888 (“MMC Act”).

2. It is stated that the Tapodhan Griha Sahakari Society Limited, which is a Co-operative Housing Society and of which presently an Administrator is appointed, have accepted the notice and the consequences thereof. The petitioners would require time to vacate the Flats/tenements in their possession. Some of the petitioners are senior citizens and therefore Mr. Ghadigaonkar prays for three (3) months' time.

3. On this limited aspect, we have heard Mr. Ghadigaonkar and Ms Adhate.

4. It is categorically stated in the notice itself that the building is dilapidated and in a ruinous condition and likely to fall. It is undisputed that the building with which we are concerned is a ground plus four upper floors. It is a brick masonry wall construction. The Consultant Structural Engineers M/s. Shashank Mehendale & Associates have opined that this building is of C-1 category. As per the structural audit report and inspection carried out, it is revealed that such an audit was not carried out by the petitioners or their Architects but it has been

carried out by the Municipal Corporation through its Panel Architect, as also by the Co-operative Housing Society. The building is more than 40 years old.

5. In the circumstances, we are not inclined to grant three (3) months' time to vacate the premises. We grant time up to 30-9-2019, after which the petitioners before us can be forcibly evicted from the premises in enforcement and implementation of the notice under Section 354 of the MMC Act. For that purpose, all assistance be rendered by the local/nearest police station to the municipal officials and the demolition squad.

6. While we dispose of the writ petition in the above terms, we clarify that insofar as the Society and the petitioners are concerned, our order will not affect any pending disputes. Equally, our order does not take away the remedies that the petitioners and the Society may possess insofar as the State Government and the Registrar, Co-operative Societies so also the Administrator of the Co-operative Housing Society in question.

7. All contentions and such remedies are kept open.

(SANDEEP K. SHINDE, J.)

(S.C. DHARMADHIKARI, J.)